

## **ATTACHMENT 1**

### **Tonfon, Inc.**

#### **Application for Global Section 214 Authority to Provide Facilities-Based and Resale Services Between the United States and All International Points**

##### **Response to Question 9**

63.18(p). Tonfon, Inc.’s (“Tonfon” or “Applicant”) application for Section 214 authority qualifies for streamlined processing under Sections 63.12(a),(c)(1)(ii) of the Commission’s Rules.<sup>1</sup> Tonfon is entitled to a presumption of non-dominance under Section 63.10(a)(1) of the Commission’s Rules on all international routes, except the U.S.-Tonga route, because it is not a foreign carrier, or affiliated with a foreign carrier, on these routes.<sup>2</sup> On the U.S.-Tonga route, Applicant is entitled to a presumption of non-dominance under Section 63.10(a)(3) of the Commission’s Rules, because Shoreline Communications Ltd (“Shoreline”), its affiliated foreign carrier in Tonga, lacks sufficient market power in Tonga to affect competition adversely in the U.S. market.<sup>3</sup> Shoreline is a recently-licensed carrier in Tonga that will compete with the incumbent carrier, Tonga Communications Corporation (“TCC”). However, Shoreline will not begin providing any communications services in Tonga under this license until July 2002. Thus, Shoreline has far less than a 50 percent market share in the international transport and

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<sup>1</sup> 47 C.F.R. §§ 63.12(a),(c)(1)(ii).

<sup>2</sup> 47 C.F.R. § 63.10(a)(1).

<sup>3</sup> 47 C.F.R. § 63.10(a)(3).

local access markets in Tonga. Moreover, Shoreline does not appear on the Commission's list of foreign carriers presumed to have market power.<sup>4</sup>

### **Response to Question 10**

Under Section 63.16(a) of the Commission's Rules,<sup>5</sup> Tonfon seeks authority to provide facilities-based and resale interconnected private line services ("international simple resale") to foreign destinations previously approved by the Commission for ISR or with foreign carriers that lack market power in the country at the foreign end of the private line.<sup>6</sup>

### **Response to Question 11**

63.18(i). Applicant certifies that it is not a "foreign carrier" in any country, as "foreign carrier" is defined in Section 63.09(d) of the Commission's Rules.<sup>7</sup> Applicant, however, certifies that it is "affiliated" with a "foreign carrier," as these those are defined in Sections 63.09(d),(e) of the Commission's Rules.<sup>8</sup> Tonfon's affiliated foreign carrier is Shoreline Communications Ltd, a carrier located in Tonga, a non-WTO country.

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<sup>4</sup> See: [http://www.fcc.gov/Bureaus/International/Public\\_Notices/1999/da990809.txt](http://www.fcc.gov/Bureaus/International/Public_Notices/1999/da990809.txt)

<sup>5</sup> 47 C.F.R. § 63.16(a).

<sup>6</sup> See 47 C.F.R. §§ 63.22(e)(1)-(2), 63.23 (d)(1)-(2).

<sup>7</sup> 47 C.F.R. § 63.09(d).

<sup>8</sup> 47 C.F.R. §§ 63.09(d),(e).

63.18(j). Pursuant to Section 63.18(j) of the Commission's Rules,<sup>9</sup> Tonfon certifies that:

- (1) it does not seek to provide international telecommunications services to any destination country in which it is a foreign carrier;
- (2) it does not control a foreign carrier in any destination country;
- (3) Shoreline Communications Ltd, which owns more than 25 percent of the Applicant, is a foreign carrier in Tonga; and
- (4) two or more foreign carriers do not own the Applicant.

63.18(k)(2). Applicant's affiliated foreign carrier, Shoreline Communications Ltd ("Shoreline"), lacks "market power" in Tonga, as that term is defined in Section 63.09(f) of the Commission's Rules.<sup>10</sup> Shoreline is a recently-licensed carrier in Tonga that will compete with the incumbent carrier, Tonga Communications Corporation ("TCC"). However, Shoreline will not begin providing any communications services under this license until July 2002. Thus, Shoreline lacks sufficient market power in Tonga to affect competition adversely in the U.S. market because it has far less than a 50 percent market share in the international transport and local access markets in Tonga. Moreover, Shoreline does not appear on the Commission's list of foreign carriers presumed to have market power.<sup>11</sup>

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<sup>9</sup> 47 C.F.R. § 63.18(j).

<sup>10</sup> 47 C.F.R. § 63.09(f).

<sup>11</sup> See: [http://www.fcc.gov/Bureaus/International/Public\\_Notices/1999/da990809.txt](http://www.fcc.gov/Bureaus/International/Public_Notices/1999/da990809.txt)

63.18(l),(m). Pursuant to Section 63.10(a)(3) of the Commission's Rules, Tonfon is entitled to a presumption of non-dominant treatment on the U.S.-Tonga route because its affiliate Shoreline lacks sufficient market power in Tonga to affect competition adversely in the U.S. market.<sup>12</sup> Shoreline is a recently-licensed carrier in Tonga that will compete with the incumbent carrier, Tonga Communications Corporation ("TCC"). However, Shoreline will not begin providing any communications services in Tonga under this license until July 2002. Thus, Shoreline has far less than a 50 percent market share in the international transport and local access markets in Tonga. Moreover, Shoreline does not appear on the Commission's list of foreign carriers presumed to have market power.<sup>13</sup>

### **Response to Question 12**

63.18(j). Pursuant to section 63.18(j) of the Commission's Rules,<sup>14</sup> Tonfon certifies that:

- (1) it does not seek to provide international telecommunications services to any destination country in which it is a foreign carrier;
- (2) it does not control a foreign carrier in any destination country;
- (3) Shoreline Communications Ltd ("Shoreline"), which owns more than 25 percent of the Applicant, is a foreign carrier in Tonga; and
- (4) two or more foreign carriers do not own the Applicant.

Tonfon seeks global Section 214 authority to provide facilities-based and resale services between the United States and Tonga. Under Section 63.18(k)(2) of the Commission's

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<sup>12</sup> 47 C.F.R. § 63.10(a)(3).

<sup>13</sup> See: [http://www.fcc.gov/Bureaus/International/Public\\_Notices/1999/da990809.txt](http://www.fcc.gov/Bureaus/International/Public_Notices/1999/da990809.txt)

<sup>14</sup> 47 C.F.R. § 63.18(j).

Rules,<sup>15</sup> Applicant has shown that its affiliated foreign carrier, Shoreline, lacks “market power” in Tonga, as that term is defined in Section 63.09(f) of the Commission’s Rules.<sup>16</sup> Shoreline is a recently-licensed carrier in Tonga that will compete with the incumbent carrier, Tonga Communications Corporation (“TCC”). However, Shoreline will not begin providing any communications services under this license until July 2002. Thus, Shoreline lacks sufficient market power in Tonga to affect competition adversely in the U.S. market because it has far less than a 50 percent market share in the international transport and local access markets in Tonga. Moreover, Shoreline does not appear on the Commission’s list of foreign carriers presumed to have market power.<sup>17</sup>

### **Response to Question 13**

Not applicable.

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<sup>15</sup> 47 C.F.R. § 63.18(k)(2).

<sup>16</sup> 47 C.F.R. § 63.09(f).

<sup>17</sup> See: [http://www.fcc.gov/Bureaus/International/Public\\_Notices/1999/da990809.txt](http://www.fcc.gov/Bureaus/International/Public_Notices/1999/da990809.txt)